

UNITED STATES CIRCUIT COURT OF APPEALS  
FOR THE SECOND CIRCUIT

NATIONAL PHONOGRAPH COMPANY,

Complainant-Appellee

vs.

AMERICAN GRAPHOPHONE COMPANY,

Defendant-Appellant.

TRANSCRIPT OF RECORD.

Appeal from the Circuit Court of the United States  
for the District of Connecticut.



## INDEX

## Page

Judges' Return, - - - - -	1.
Bill of Complaint - - - - -	2.
Appearances - - - - -	7.
Answer - - - - -	8.
Replication - - - - -	12.
Amendment to Answer - - - - -	13.
Stipulation as to Defendant's Process, - - - - -	14.

## Complainant's Evidence .

=====

## Complainant's Prima Facie Testimony .

Frank L. Dyer, Witness:	
Direct - examination	16
Cross	34
Re-direct	88.
Re-cross	100
Albert Wurth, Witness:	
Direct - examination	106
Cross	121
Re-direct	132
Re-cross	132
A. Theo. E. Wangemann, Witness:	
Direct - examination	133
Cross	141
Re-direct	153
Walter H. Miller, Witness:	
Direct - examination	154.
Cross	162
Re-direct	173
Re-cross	173
Walter H. Miller, Witness, (Recalled):	
Direct - examination	175
Cross	175
Re-direct	176
John F. Randolph, Witness:	
Direct - examination	176
Cross	177

## INDEX - 2 -

John H. Schomerhorn, Witness:	178
Direct - examination	
Cross	
Re-direct	
Re-cross	
Henry L. Smith, Witness:	179
Direct - examination	
Cross	
Re-direct	
Re-cross	
Alexander N. Pierman, Witness:	180
Direct - examination	183
Cross	184
Re-direct	
Re-cross	
James W. Aylesworth, Witness:	185
Direct - examination	201
Cross	210
Re-direct	
Re-cross	
James A. Edison, Witness:	211
Direct - examination	227
Cross	234
Re-direct	
Re-cross	
Complainant's Rebuttal Testimony	
Frank L. Dyer, Witness:	237
Direct - examination	282
Cross	
Albert Wurth, Witness:	302
Direct - examination	306
Cross	
James W. Aylesworth, Witness, (Stipulated):	308
Direct - examination	310
Cross	311
Re-direct	
Re-cross	312
James A. Edison, Witness, (Stipulated):	312
Direct - examination	

III  
Complainant's EXHIBITS

*Patents:*

Complainant's Exhibit Macdonald Re-issue  
Complainant's Exhibit Patent in Suit  
Complainant's Exhibit Edison Patent, No. 430,278  
Complainant's Exhibit Edison Patent, No. 484,582  
Complainant's Exhibit Miller & Aylsworth Method Patent, No. 683,615  
Complainant's Exhibit Aylsworth & Miller Apparatus Patent No. 683,676  
Complainant's Exhibit Edison Patent No. 382,462  
Complainant's Exhibit Edison Patent No. 393,463  
Complainant's Exhibit Edison Patent No. 393,464  
Complainant's Exhibit Edison Patent No. 430,274

*Physical:*

Complainant's Exhibit Dyer Experiment  
Complainant's Exhibit Wurth Note-book  
Complainant's Exhibit Record Mold F  
Complainant's Exhibit Apparatus for Duplicating by Expansion  
Complainant's Exhibit Record Mold 75  
Complainant's Exhibit Record Mold Sweet Home  
Complainant's Exhibit Record Mold Darling  
Complainant's Exhibit Record Mold Band  
Complainant's Exhibit Mold of 320-400 Thread Record  
Complainant's Exhibit Wurth Plating Record

Complainant's Exhibit Record Mold of 1897	117
Complainant's Exhibit Concert Record Mold	118
Complainant's Exhibit Wurth Thread Changer	121
Complainant's Exhibit National Phonograph Company's First Catalogue of Molded Records	158
Complainant's Exhibit Aylsworth Apparatus of Patent No. 667,662	200
Complainant's Exhibit Record of Patent No. 667,662 No. 1	200
Complainant's Exhibit Record of Patent No. 667,662 No. 2	200
Complainant's Exhibit National Phonograph Co. Unfinished Blank No. 1	210
Complainant's Exhibit National Phonograph Co. Unfinished Blank No. 2	210
Complainant's Exhibit Schulze-Berge Note Book, April 11, 1888, to September 15, 1888	236
Complainant's Exhibit Schulze-Berge Note Book, September 27, 1888, to February 6, 1890	236
Complainant's Exhibit Schulze-Berge Note Book, February 11, 1890, to January 21, 1891	236
Complainant's Exhibit Lioret No. 1	268
Complainant's Exhibit Lioret No. 2	269
Complainant's Exhibit Lioret No. 3	269
Complainant's Exhibit Lioret No. 4	270
Complainant's Exhibit Lioret No. 5	270
Complainant's Exhibit Lioret No. 6	270
Complainant's Exhibit Lioret No. 7	270
Complainant's Exhibit Lioret No. 8	271
Complainant's Exhibit Complainant's Duplicate Record Carton	280

Complainant's Exhibit Defendant's  
Molded Record-----  
Complainant's Exhibit Edison Molded  
Record-----  
Complainant's Exhibit Split Mold-----  
  
*Miscellaneous—Title Papers, etc.*  
Complainant's Exhibit Assignment of  
Patent in Suit-----  
Complainant's Exhibit Announcement of  
Advent of Defendant's Molded  
Records-----  
Complainant's Exhibit National Phono-  
graph Co. Circular Letter of January  
13, 1902-----  
Complainant's Exhibit Printed Circular  
of January 1, 1902-----  
Complainant's Exhibit Translation of  
Schulze-Berge's Note Book, February  
11, 1890, to January 21, 1891-----  
Complainant's Exhibit Edison Caveat of  
October 26, 1888-----  
Complainant's Exhibit Certificate of  
Incorporation-----  
Complainant's Exhibit Joyce File-----  
Complainant's Exhibit Extract from Edi-  
son's English Patent No. 1644 of  
April 24, 1878-----

07162

282

282

302

153

179

179

180

213

236

245

281

## INDEX - 6 -

## Defendant's Evidence.

Defendant's Testimony.

Thomas H. Macdonald, Witness:	
Direct - examination	314
Cross "	322
Re-direct "	339
Re-cross "	341
Recalled:	
Direct - examination	354
Cross "	366
Re-direct "	375
Re-cross "	376
Recalled:	
Direct - examination	384
A. E. Belcher, Witness:	
Direct - examination	342
Cross "	343
Herbert A. Budlong, Witness:	
Direct - examination	345
Cross "	346
Eugene E. Norton, Witness:	
Direct - examination	351
Anson A. Stephenson, Witness:	
Direct - examination	376
Eugene H. Byrnes, Witness:	
Direct - examination	377
Cross "	378
Frank H. Osborne, Witness:	
Direct - examination	378
Cross "	380
Edward D. Easton, Witness:	
Direct - examination	381
Shelton T. Cameron, Witness:	
Direct - examination	386
Cross "	431

*Index-7*

Defendant's

EXHIBITS.

Offered. Prin

"Defendant's Exhibit, Macdonald 1895 Mold"	387	on
"Defendant's Exhibit, Blank Mold"	387	on
"Defendant's Exhibit, Chisel Point Recorder"	387	on
"Defendant's Exhibit, Cast Record with Square Cut Groove"	387	on
"Defendant's Exhibit, Photograph 1895 Mold"	516	76
"Defendant's Exhibit, Photo. 1899 Mold No. 1"	516	77
"Defendant's Exhibit, Photo. 1899 Mold No. 2"	516	77
"Defendant's Exhibit, Graphophone-Phonograph Agreement"	383	75
"Defendant's Exhibit, Extracts from Publications Defining Shrinkage Rule"	385	76
"Defendant's Exhibit, Circular of Jan., 1902"	346	77
"Defendant's Exhibit, Certified Copy File Wrapper and Contents, Patent in Suit"	387	58
Patent in Suit, No. 713,209		67
"Defendant's Exhibit, U. S. Patent No. 303,970"	386	66
"Defendant's Exhibit, U. S. Patent No. 341,214"	386	66
"Defendant's Exhibit, U. S. Patent No. 341,287"	386	66
"Defendant's Exhibit, U. S. Patent No. 382,417"	386	70
"Defendant's Exhibit, U. S. Patent No. 382,462"	431	70
"Defendant's Exhibit, U. S. Patent No. 393,462"	386	71
"Defendant's Exhibit, U. S. Patent No. 393,463"	431	71
"Defendant's Exhibit, U. S. Patent No. 400,647"	386	71
"Defendant's Exhibit, U. S. Patent No. 400,648"	431	71

III

Defendant's Exhibit, U. S. Patent No. 400,649" -----	331
" Defendant's Exhibit, U. S. Patent No. 400,650" -----	331
" Defendant's Exhibit, U. S. Patent No. 406,576" -----	332
" Defendant's Exhibit, U. S. Patent No. 414,761" -----	332
" Defendant's Exhibit, U. S. Patent No. 484,582" -----	332
" Defendant's Exhibit, U. S. Patent No. 488,191" -----	332
" Defendant's Exhibit, U. S. Patent No. 528,273" -----	332
" Defendant's Exhibit, U. S. Patent No. 559,806" -----	332
" Defendant's Exhibit, U. S. Patent No. 563,572" -----	332
" Defendant's Exhibit, U. S. Patent No. 606,725" -----	332
" Defendant's Exhibit, U. S. Patent No. 667,662" -----	332
" Defendant's Exhibit, British Patent No. 1478 of 1894 to Young" -----	332

Opinion, -----

Final Decree, -----

Petition of Appeal and Allowance of Same, -----

Assignment of Errors, -----

Appeal Bond and Approval of Same, -----

Citation -----

Clerk's Certificate -----